

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Inquiry Concerning Deployment of)
Advanced Telecommunications)
Capability to All Americans in a Reasonable)
And Timely Fashion, and Possible Steps)
To Accelerate Such Deployment Pursuant)
To Section 706 of the Telecommunications)
Act of 1996)

CC Docket No. 98-146

REPLY COMMENTS OF
THE NATIONAL CABLE TELEVISION ASSOCIATION

The National Cable Television Association ("NCTA") hereby submits its reply comments in the above-captioned proceeding.

In its initial comments, NCTA showed that the Commission's determination to allow marketplace forces to foster the competitive deployment of high-speed Internet access services is working. To say that such services are being deployed in a "reasonable and timely fashion," as contemplated by Section 706, would be an understatement.

Cable operators are investing billions of dollars to upgrade their systems across the nation – small systems as well as large systems, in rural areas and inner cities as well as in suburban areas – to provide high-speed Internet services. Moreover, they are providing access free of charge to an ever-increasing number of schools and libraries, so that even those households that are unable to purchase cable modem service will have high-speed access to the Internet. In short, cable operators are fulfilling their promise to

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lead the way in wiring the nation for high-speed Internet services. And they are doing so in a manner that will bridge, rather than create, a “digital divide.”¹

Moreover, NCTA submitted substantial evidence that cable’s nationwide deployment of high-speed Internet services is spurring the widespread deployment of competing services by telephone companies, DBS operators, fixed wireless providers and others. The comments filed by these competitors confirm that this is the case.² Some of them contend that their deployment of high speed Internet services could be made easier by certain regulatory or legislative actions. But, at the same time, their comments show that they, like cable operators, are rapidly making their services available throughout the nation in the current regulatory environment..

In particular, it now seems clear that what telephone companies needed, in order to expedite their widespread deployment of DSL service, was not regulatory or legislative action but the jolt of competition from cable operators. Once cable operators began rapidly deploying cable modem service, telephone companies evidently had all the incentive they needed to develop and deploy competitive DSL services.

Thus, as GTE Service Corporation concedes, “[d]espite regulatory barriers, advanced services are generally becoming available to all Americans without undue

¹ See generally Comments of AT&T Corp.; Comments of Cox Communications, Inc.; Comments of MediaOne Group, Inc. NCTA submitted with its initial comments a report prepared by Kagan Media Appraisals, Inc. showing the growth of high-speed Internet access service availability from cable operators and other facilities-based providers. Since the submission of those comments, certain data and projections in Kagan’s database have been updated. In particular, as indicated in Attachment A to these reply comments, the projected total number of online Internet households (high-speed and low-speed) at the end of 2000 has been revised upward from 33.8 million to 48 million.

² Many commenting parties also agree with NCTA that the Commission’s definition of “advanced telecommunications capability” should be modified to reflect the fact that services that provide high-speed (200 Kbps) *downstream* capability are competitors in the provision of high-speed Internet access to consumers, whether or not they also provide high-speed *upstream* capability. See, e.g., Comments of Bell Atlantic at 2-5; Comments of SBC Communications Inc. at 5-9; Comments of GTE at 7-9; Comments of National Telephone Cooperative Association at 2-4; Comments of AT&T Corp. at 4-7.

focus on geographic or demographic lines.”³ According to GTE, “[b]roadband services are being deployed throughout the country *at a very rapid pace*. While the deployment is not completely uniform, *there are no indications that a market failure is occurring*.”⁴

SBC confirms that it has set an ambitious timetable for deploying DSL service – and that it is *exceeding* its own goals. Since July of 1998,

SBC has upgraded 722 central offices in its region to make them DSL capable and, within SBC’s region, ADSL service is now available to over 12 million homes and businesses. In February 2000 alone, SBC subsidiaries launched ADSL service in 50 new markets, and will add 300 additional markets by year-end. *At this deployment pace, SBC is on track to exceed its initial goal of having 16 million DSL-eligible homes and businesses in its territory by the end of this year.*⁵

SBC expects “to provide DSL capability to 80 percent of its wireline customers by the end of 2002, and ultimately to make the service available to 77 million Americans (which is more than a quarter of the entire U.S. population).”⁶ And it has embarked on a \$6 billion investment – “Project Pronto” – to meet this goal.⁷

Bell Atlantic similarly notes that its deployment of DSL has “steadily increased”⁸ since the Commission’s last Section 706 inquiry. It has equipped 794 of its central offices, which serve approximately 14,300,000 households and businesses, with ADSL

³ Comments of GTE at 9 (emphasis added).

⁴ *Id.* (emphasis added).

⁵ Comments of SBC Communications Inc. at 3-4 (emphasis added).

⁶ *Id.* at 4.

⁷ *Id.*

⁸ Comments of Bell Atlantic at 6.

capability, and expects that 1,200 central offices will be ADSL-capable by the end of the year.⁹

Finally, BellSouth also agrees that advanced broadband capabilities “are far more extensive today than they were a year ago.”¹⁰ Indeed, according to BellSouth,

a wide range of competitors are deploying a variety of technologies *as fast as, or faster than, Congress could have envisioned in 1996*. This deployment is occurring *in backbone as well as last mile facilities*. Moreover, while deployment is obviously taking place faster in more densely populated areas, *the market is carrying advanced services capabilities to rural areas as well*.¹¹

In addition to incumbent local exchange carriers, national facilities-based competitive local exchange carriers are also providing DSL service. One of those CLECs, NorthPoint Communications, Inc., notes that “spurred by recent Commission decisions, NorthPoint has ramped up its deployment of DSL services by expanding its market penetration, entering new markets, targeting residential customers, and providing additional xDSL services as well as value-added services.”¹² By the end of this year, NorthPoint “expects to reach over 60 markets and 110 MSAs” and to “pass nearly 45% of homes and more than half of all businesses in the U.S.”¹³

As NCTA showed in its initial comments, DSL and cable modem service are hardly the only current and prospective high-speed Internet access services. The comments of Hughes Network Systems and Hughes Communications Galaxy, Inc.

⁹ *Id.*

¹⁰ Comments of BellSouth Corporation at 2.

¹¹ *Id.* at 4 (emphasis added).

¹² Comments of NorthPoint Communications, Inc. at 7.

¹³ *Id.* at 3.

(“Hughes”) confirm that satellite-based broadband services are rapidly being made available to all Americans. According to Hughes, its DIRECPC services

had 50,000 U.S. consumer users and, in addition, provided services to many schools, libraries, and community centers. . . . By the end of 2002, Hughes estimates that DIRECPC will serve over 1.2 million users across the United States.¹⁴

Hughes plans to enhance this service and “serve millions of users” with its “\$1.4 billion investment in the SPACEWAY Ka band satellite system, which Hughes is in the process of constructing and which Hughes plans to launch in 2002.”¹⁵

Fixed wireless providers of high-speed Internet and broadband services are also “committed to making the enormous investments necessary to fulfill Chairman Kennard’s vision of widely available, high-speed Internet access for all consumers.”¹⁶ According to the Wireless Communications Association International, Inc. (“WCA”), the domestic market for broadband fixed wireless services is expected to “skyrocket from \$767 million in 1999 to \$7.4 billion by 2003, and . . . the total number of fixed wireless broadband subscribers will increase from 200,000 this year to 9.4 million in 2005.”¹⁷

One fixed wireless provider, Sprint Corporation, points out that it has begun deploying “two-way Internet access using MMDS spectrum in Phoenix, Arizona and will soon roll-out service in Tucson, Arizona.”¹⁸ Sprint also notes that “MCI WorldCom has three MMDS trials underway in Jackson, Mississippi; Baton Rouge, Louisiana; and Memphis, Tennessee,” and that “[t]rials in Boston, Massachusetts and Dallas, Texas are

¹⁴ Comments of Hughes Network Systems and Hughes Communications Galaxy, Inc. at 5.

¹⁵ *Id.* at 6.

¹⁶ Comments of the Wireless Communications Association International, Inc. at iii.

¹⁷ *Id.* at 2-3 (emphasis added) (footnotes omitted).

¹⁸ Comments of Sprint Corporation at 5.

planned for later this year.”¹⁹ Sprint reports that it “is optimistic that deployment of broadband services to all Americans in a reasonable and timely fashion can be accomplished through fostered competition and rapid deployment of MMDS service.”²⁰

All these comments, along with the evidence and report submitted by NCTA, belie the contention of MCI Worldcom, Inc. that “last mile” deployment of high-speed Internet access facilities is lagging.²¹ MCI Worldcom alone contends that unless the Commission adopts a regulatory policy of “open access to the cable broadband network,” consumers are unlikely to have any choices other than the high-speed Internet service offerings of incumbent cable operators and incumbent local exchange carriers.²² The evidence shows precisely the opposite – *i.e.*, that, spurred by the Commission’s determination to maintain a “hands-off” approach, deployment of a multitude of competitive high-speed facilities and Internet services has accelerated and is proceeding at a rapid pace.

CONCLUSION

There is every reason to believe, based on the record in this proceeding, that high speed Internet access services are being made available “to all Americans in a reasonable and timely fashion.” And given the breakneck pace at which cable operators and their competitors are rolling out such services, it is hard to imagine any regulatory steps that could “accelerate such deployment, pursuant to Section 706.”

¹⁹ *Id.*

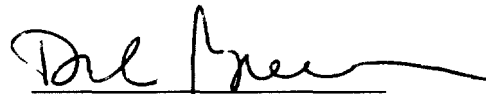
²⁰ *Id.* at 7.

²¹ *See* Comments of MCI Worldcom, Inc. at 3-4.

²² *Id.* at 8-10.

To the contrary, it is the Commission's commitment *not* to intervene that has worked to promote investment and accelerate deployment of high-speed Internet access services by cable operators and, soon thereafter, by a multitude of competitors. The record shows that advanced telecommunications capability is being deployed and made available to *all* Americans in a reasonable and timely fashion. And it compellingly shows that the "hands off" approach that the Commission has adopted is the best way to foster and accelerate that continued deployment.

Respectfully submitted,


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ATTACHMENT A

Attachment A

KAGAN MEDIA APPRAISALS, INC.

At the time we compiled the data for the State of Broadband Competition report submitted with NCTA's Comments in the FCC's Section 706 inquiry, we were in the midst of updating our baseline statistics for the number of PC and Internet households in the U.S. That data has since moved upward, as follows:

Estimated number of PC homes with an Internet connection at YE'00: 48 mil.

The wider PC and Internet footprint therefore changes the data, with respect to broadband households as a percentage of PC/Internet households. By the end of this year, broadband could reach 12.5% of U.S. homes with a PC and an online/Internet connection, and not 17% of 33.8 mil. Internet/PC households, as we originally indicated in the Executive Summary section of the report.

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Paul Kagan Associates
April 4, 2000